



United States Department of Commerce
National Marine Fisheries Service

United States Department of the Interior
Fish and Wildlife Service



National Marine Fisheries Service
510 Desmond Drive S.E., Suite 103
Lacey, Washington 98503

Fish and Wildlife Service
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RECEIVED

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November 27, 2000

DEPARTMENT OF ECOLOGY
OFFICE OF DIRECTOR

Mr. Tom Fitzsimmons, Director
Washington State Department of Ecology
300 Desmond Drive
Lacey, WA 98503

Re: Shoreline Master Program Guidelines and Endangered Species Act Compliance

Dear Mr. Fitzsimmons:

We are writing to express the support of our two agencies, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service, for the adoption of the updated shoreline master program guidelines, Ch. 173-26-WAC. We appreciate the opportunity you have extended to us over the past nine months to participate in the revision of the guidelines.

Our primary focus in working with the Washington State Department of Ecology, the Governor's Salmon Recovery Office, and the Washington State Attorney General's Office has been to craft the revised rule consistent with the federal intent to conserve species listed as threatened or endangered under the Endangered Species Act (ESA), particularly the recently listed fish species.

The updated rule is divided into two pathways, part III and part IV, from which local governments may choose in revising their shoreline master programs. Both paths provide better protection of ecological processes than the current guidelines. While part III provides flexibility to local jurisdictions in meeting the provisions of the state Shoreline Management Act, part IV provides additional protection for aquatic species listed under the ESA. Because the part IV guidelines provide greater certainty for the protection of ecological processes supporting anadromous fish and bull trout, we believe they will also help conserve coastal cutthroat trout, a species proposed for listing in southwestern Washington, and may be instrumental in preventing future listings of both aquatic and terrestrial species. Accordingly, we have focused our effort and our support on the part IV guidelines.

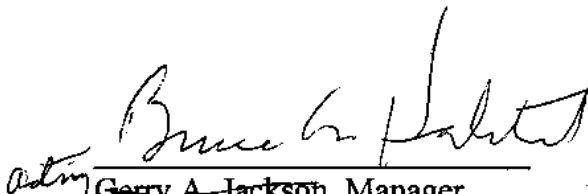
Our intent during the drafting of the revised guidelines has been to insure that as local governments complied with part IV of the revised guidelines, they also would be in compliance with the requirements of the ESA. We expect that the National Oceanic and Atmospheric Administration, Ocean Coastal Resource Management (NOAA/OCRM), the federal agency that provides funds for Ecology's shorelands program, will consult with both the NMFS and FWS as required by section 7 of the ESA. Local governments statewide that adopt master programs consistent with part IV would then be covered by that programmatic section 7 consultation. Specifically, incidental take of listed species that may occur while local governments implement their master program's in accordance with part IV, will be covered in the incidental take statements (ITS's) issued by the Services to NOAA/OCRM. Once the master programs are reviewed and certified by Ecology, shoreline development or uses that are within the jurisdiction of the SMA, are permitted by local governments, and meet all provisions of the part IV master program, and the ITS's, would be compliant with ESA.

We strongly support your efforts to update the shoreline guidelines. Timely adoption of this new rule will provide better protection for listed species and their habitats than is currently possible under the existing rule. The monitoring and adaptive management provisions provide some assurance that, should the approach set forth in the updated guidelines provide less protection than originally assumed, the mechanisms are in place to revisit and revise them to address as yet unforeseen issues.

If you have any questions, please contact either of us or our respective staff members.

Sincerely,


Steven W. Landino
Washington State Habitat Branch Chief


acting ~~Gerry A. Jackson~~, Manager
Western Washington Office